

**OCTOBER 12, 2010 MINUTES
REGULAR WHEATLAND CITY COUNCIL MEETING
WHEATLAND COMMUNITY CENTER
101 C STREET, WHEATLAND, CA
6:00 – 7:30 p.m.**

COUNCIL MEMBERS PRESENT: D. Coe, E. Elphick, L. McIntosh, R. West
Absent- J. Pendergraph

OTHER OFFICIALS PRESENT: S. Wright, City Manager
R. Shanahan, City Attorney
D. Schilling, City Engineer
M. McCrary

PLEDGE OF ALLEGIANCE:

Council member David Coe led the pledge of allegiance.

PUBLIC COMMENT

B. Bartholomew commented on the proposed Ordinance regarding Medical Marijuana Dispensaries and signs for Bishop's Pumpkin Farm.
Marilyn Nichols commented on handicapped curbs.

CONSENT CALENDAR

It was moved by Council member D. Coe, seconded by E. Elphick to approve ***minutes from the regular meeting on September 14, 2010 with a correction indicating Council member's West absence from the meeting and the FOG Ordinance-Annual Fee Update.** Vote called – AYES: All. Motion carried.

***Council member R. West abstained from the vote on approval of the minutes from the regular meeting on September 14, 2010.**

REGULAR CALENDAR

D. Schilling presented discussion of the LDS Project and Olive Street Improvements. Schillings explained that in September 2009, construction began on the Church of the Latter Day Saints ("LDS") project on Wheatland Road. The Conditions of Approval for the project and the improvements plans included various off-site improvements including widening Wheatland Road and the extension of Olive Street from its westerly terminus to the westerly limits of the LDS property. After on-site construction commenced and just before work on extending Olive Street began the Yuba County Office of Education and representative from their Virginia School contacted the City and news media regarding the extension of Olive Street along the school property. Shortly thereafter representatives for the LDS Church and their surveyor questioned the existence of the City's right-of-way along the southerly edge of Virginia School. The City engaged a surveyor to perform a review situation and concluded that a 60-ft wide road right-of-way was recorded as Cabbage Patch Road in 1862. But the record of survey that was recorded by Yuba County in conjunction with the creation of the Virginia School does not recognize the Olive Street right of way. Staff reviewed the circumstances and, primarily due to the uncertainties surrounding the existence of right of way, agreed with

LDS representatives to defer the improvements on Olive Street. Construction on the entire LDS project continued uninterrupted and was substantially complete on August 20, 2010. On August 10, 2010, a deferred improvement agreement was transmitted to LDS representatives for signature. As of the date of this report, LDS representatives have not yet returned a signed agreement or provided any comments. When asked about the status they have replied that it is being reviewed by their attorney. At the September 14, 2010, Council Meeting, Mr. Karl Nichols provided public comment and posed questions to Council on why a certificate of occupancy hadn't been issued for the LDS project and suggested that that the condition requiring the improvements on Olive Street was removed at one point prior to final conditions but then re-inserted by the City in the final conditions of approval. He also said that the City never intended to build Olive Street in the vicinity of the LDS project. On October 1, 2010 the City received the attached letter from Karl Nichols expressing his opinion of the circumstances surrounding the extension of olive Street.

S. Wright explained there are two issues the City needs to deal with, the right-of-way ownership; an evaluation of Olive Street and whether or not there should be two cul-de-sacs that stop between one lot and always have cul-de-sacs or at some point should there be a through street. There is a bonding requirement in the agreement that council could consider putting a time limit to do the two pieces of analysis so a temporary Certificate of Occupancy could be issued for the church to allow them to use the facility during this time period that way a time certain would not require the bond piece to be held for a long period of time.

E. Elphick stated there is no documentation that the property was deeded to the Virginia School and if it is not, then the City has to determine if that street is needed to service the community. Elphick added the City cannot ask the community of Wheatland to pay for the street.

Karl Nichols commented that the Planning Commission voted to exclude the Olive Street right-of-way when the Conditions of Approval were approved. Nichols suggested review of the minutes from that meeting.

Mario (last name inaudible), Architect representing the LDS church stated the church accepted the conditions of approval in good faith and LDS was aware of Condition No. 23 and questioned if the development of Olive Street is a feasible project. LDS would like to proceed with a deferred condition.

L. McIntosh stated that sometimes the Planning Commission may recommend something to council but Council may not approve the recommendation.

E. Elphick suggested placing a two and one half year deadline on the City to find out if they don't own the right-of-way and have enough time to get the right-of-way. That would put LDS funds in a position of only being out of use for assets during that the two and half year period and come up with a letter of credit.

R. Shanahan explained that the two and half year period would be the time within which the City would need to demand the improvement or not. If the City does not demonstrate the right-of-way and demand the improvement with this time period then the obligation would go away. Shanahan added the two and one half year period should be sufficient time for the City to obtain the right-of-way.

D. Coe stated there needs to be a way for the LDS building to be occupied and suggested a temporary occupancy permit.

R. Shanahan stated the deferred improvement agreement could be amended to two and a half years and add 'or a performance bond' in Section 6, that way the only burden being placed on the project is a \$30,000 bond or letter of credit.

It was moved by Council member R. West, D. Coe seconded to **authorize the City Manager to approve the Deferred Improvement Agreement in substantially the form in the agenda packet with the exception to change the term to a period of two and a half years.**

K. Nichols requested a copy of the Planning Commission minutes and recommended the City Council issue a temporary occupancy permit.

M. Nichols commented on maintenance of existing and future roads.

REPORTS

S. Wright commented on the status of the Fire Chief candidate.

CLOSED SESSION

No reportable action.

ADJOURN

There being no further business, Mayor Enita Elphick adjourned the meeting 7:30 p.m.

Minutes approve and adopted this 26th day of October, 2010.

Enita Elphick, *Mayor*

Rafaela Vargas, *Deputy City Clerk*